THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20438 OF 2005

DATED 16.09.2005

BETWEEN

Ponnala Laxmi, W/o Ponnala Mallaiah, R/o H.No.1-6-298,

Ambedkarnagar, Metpally, Karimnagar District.

…PETITIONER

AND

The Chief Commissioner, the State Election Commission,

III Floor, Budhabhavan, Secunderabad,

And others.

…RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20438 OF 2005

ORDER:

The petitioner is resident of Metpally in Karimnagar District. After the publication of election notification on 01.09.2005 by the first respondent calling upon the voters of Metpally Municipality to elect the Members of the wards, the petitioner approached the Election Officer, the third respondent herein, to receive her nomination, in vain. She was informed that her name is not included in the electoral roll of Metpally Municipality. The petitioner, therefore, seeks a writ of Mandamus declaring the action of the respondents in deleting the name of the petitioner from electoral roll of 15th ward of Metpally Municipality and for a consequential direction to the respondents to receive the nomination of the petitioner for ward No.14 for contesting election as Member of said ward in Municipal Elections, 2005.

The petitioner, in support of her claim that she is resident of house No.1-6-298, ward No.14, placed before this Court the household card, sanction of H.P.C.L., giving LPG gas connection under 'Deepam' scheme and other evidence. She has also

produced before this Court the voters list for ward No.15 wherein her name was initially included at serial No.117. In one of the documents i.e., the revised voters list, the name of the petitioner is found in the excluded list.

The matter was heard in the forenoon and the learned Government Pleader for Municipalities was directed to get instructions from the Electoral Registration Officer, Jagtial. After getting instructions, in the afternoon the learned Government Pleader submits that the petitioner's name was deleted from Voters List in January, 2004 even before Assembly Elections in 2004. The learned standing counsel for Muncipality submits that on a request made by the petitioner, the Election Officer supplied nomination forms and allowed the petitioner to file the nomination. He further submits that after conducting the scrutiny, the nomination of the petitioner was rejected as she incurs disqualification under Section 13 of A.P.Municipalities Act, 1965 (for short, the Act) i.e. the name of the petitioner is not included in the voters list.

There cannot be any denial that unless and until a person is a voter in the Municipality, he/she cannot be permitted to contest the election. The essential qualification for contesting Municipal Elections as a ward Member is inclusion of his/her name in voters list. Whether the petitioner's name was improperly excluded and whether the Electoral Registration Officer has followed any procedure as contemplated under Registration of Voters Rules are the matters, which cannot be decided here. If so advised, it shall be open to the petitioner to approach appropriate Election Tribunal and challenge the election after declaration of results. In this writ petition, no direction can be granted to the Election Officer to accept the nomination of the petitioner and allow her to contest the election especially when *prima facie* the petitioner is disqualified under Section13 of the Act to contest the election as ward Member.

The writ petition, with the above observation, is dismissed.

_____

(V.V.S.RAO,J)

16.09.2005.

pln